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6 Attorneys for Defendant Chipotle Mexican Grill, Inc.

7
8 IN THE UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON AT SEATTLE

10 BRIAN DAVIS an individual,

11 Plaintiff,

12 v.

13 CHIPOTLE MEXICAN GRILL, INC. a foreign
14 corporation doing business in Washington, and
ABC CORPORATION 1-10,

15 Defendants.
16

Civil Case No.

**NOTICE OF REMOVAL OF
ACTION**

JURY TRIAL DEMANDED

17
18 TO: THE CLERK OF THE ABOVE ENTITLED COURT:

19 PLEASE TAKE NOTICE that pursuant to 28 U.S.C. § 1441, 1446 and 1332(2), Chipotle
20 Mexican Grill, Inc. ("Defendant") removes this action from the Superior Court of the State of
21 Washington for the County of King to the United States District Court for the Western District of
22 Washington in Seattle, Washington.

23 **RELEVANT FACTS**

24 On March 3, 2020, Defendant was served with a Summons and Complaint captioned Brian
25 Davis, an Individual vs. Chipotle Mexican Grill, a foreign corporation doing business in
26 Washington, and ABC Corporation 1-10, King County Superior Court Case No. 20-2-05332-5
27 SEA. Copy of the Complaint is attached hereto as Exhibit A and the affidavit of service is attached
28

as Exhibit B to the Declaration of Sarah E. Tuthill-Kveton, filed concurrently herewith. The amount in controversy is in excess of \$75,000. Decl. of Tuthill-Kveton, ¶ 3, Ex. C.

GROUND FOR REMOVAL

Pursuant to 28 U.S.C. § 1441(a), a defendant may remove an action filed in the state court to the United States District Court if the district court has diversity jurisdiction under 28 U.S.C. § 1332(a)(1). If the case started by the initial pleading is not removable, a notice of removal may be filed within thirty days after receipt by the defendant, through service or otherwise, a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable. 28 U.S.C. § 1441(b)(3).

The Plaintiff's claims for relief against defendant exceed \$75,000. Decl. of Tuthill-Kveton, ¶ 3, Ex. C. that confirmation was within 30-days of filing Defendant's Notice of Removal. Additionally, Plaintiff and Defendant reside in different states. Upon information and belief, Plaintiff resides in Washington. Compl. ¶ 1.1. Defendant is a California foreign business corporation registered in the State of Washington. Decl. of Tuthill-Kveton ¶ 4.

This is an action over which the United States District Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332(a)(1).

TIMELINESS AND PROCEDURE

This Notice of Removal was filed within thirty days after Defendant first ascertained that the case is one which has become removable. 28 U.S.C. § 1441(b)(3). Initially, plaintiff was unclear whether his claim exceeded \$75,000. Decl. of Tuthill-Kveton ¶ 6. On March 13, 2020, Defendant served Interrogatories requesting the amount of general damages as well as itemized "special damages." Plaintiff responded on April 10, 2020 providing that his special damages were less than \$75,000, but and failed to provide an amount of general damages. Decl. of Tuthill-Kveton, ¶ 5, Ex. D.

Counsel for Defendant consistently inquired on whether a decision had been made as to the value of the case with no definite response. *Id.* On August 10, 2020, Plaintiff failed to timely submit the case to arbitration, as required by the King County Case Schedule. *Id.* at ¶¶ 3, 6, Ex. C. All cases with a value of \$100,000 or less are subject to arbitration in King County. As such,

1 plaintiff must believe that his case has a value in excess of \$100,000 and therefore did not remove
2 the case to arbitration. *Id.* It has been less than 30 days since August 10, 2020, therefore the
3 removal is timely.

4 Counsel for Defendant will file a copy of this Notice of Removal with the Clerk of the
5 Superior Court of the State of Washington for the County of King and will give notice of same to
6 Plaintiff as required by 28 U.S.C. § 1446(d).

7 WHEREFORE, Defendant prays that this action be removed from the Superior Court for
8 the County of King and placed on the docket of the United States District Court for the Western
9 District of Washington in the Seattle Division.

10 Dated this 21st day of August, 2020.

11 **CHOCK BARHOUM LLP**

12 

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17 Attorneys for Defendant

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7 IN THE UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON AT SEATTLE

9 BRIAN DAVIS an individual,)
Plaintiff,)
10 v.)
11 CHIPOTLE MEXICAN GRILL, INC. a foreign)
corporation doing business in Washington, and)
12 ABC CORPORATION 1-10,)
13 Defendants.)

Civil Case No.

CERTIFICATE OF SERVICE

14 I hereby certify that on this 21st day of August, 2020, I will electronically file the foregoing
15 with the Clerk of the Court using the CM/ECF system, which will then send a notification of such
16 filing to all registered individuals. Additionally, I hereby certify that a true copy of the foregoing
17 **NOTICE OF REMOVAL OF ACTION** was served as stated below on:

18 Thomas Moore, WSBA #46027
LEHMBECKER LAW
19 400 – 108th Avenue NE, Suite 500
Bellevue WA 98004
20 Attorneys for Plaintiff

- ☐ By hand delivery
☐ By first-class mail*
☐ By overnight mail
☐ By facsimile transmission
Fax #:
☒ By e-mail: tmoores@lehmlaw.com;
rgoettel@lehmlaw.com

21
22 *With first-class postage prepaid and deposited in Portland, Oregon.

23 Dated this 21st day of August, 2020.

24 **CHOCK BARHOUM LLP**

25 

26 Sarah Tuthill-Kveton, WSBA No. 51801
Email: sarah@chockbarhoum.com
27 Attorneys for Defendant
28